

CITY OF BOULDER

POLICIES AND PROCEDURES

Anti-Discrimination/Harassment Policy

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Frank Bruno

Frank Bruno, City Manager

I. POLICY

It is the policy of the City of Boulder to provide a productive work environment and not to tolerate verbal or physical conduct by any employee, customer, or member of the public that harasses, disrupts or interferes with another's performance or that creates an intimidating, hostile or offensive work environment. It is the policy of the City of Boulder to prohibit discrimination against employees or applicants for employment on the basis of race, national origin, religion, disability, pregnancy, age, military status, marital status, genetic characteristics, gender, gender identity, gender variance, or sexual orientation.

II. CLARIFICATION

Employees are expected to maintain a productive work environment that is free from harassing or discriminatory activity. No form of harassment or discrimination will be tolerated, including harassment or discrimination for the following reasons: race, national origin, religion, disability, pregnancy, age, military status, marital status, genetic characteristics, gender, gender identity, gender variance, or sexual orientation. This policy specifically prohibits any form of sexual harassment.

Definitions

Discrimination is any practice, process or action in the work place which impedes equal opportunity and works against the ability of each person to be employed, evaluated, receive assignments and advance based on merit and not based on race, national origin, religion, disability, pregnancy, age, military status, marital status, genetic characteristics, gender, gender identity, gender variance, or sexual orientation.

Harassment may be verbal, physical, visual, or sexual. It may be general behavior, or behavior targeted toward a specific individual or group of people. Harassment may occur regardless of whether the behavior was intended to harass.

General forms of harassment on the basis of race, national origin, religion, disability, pregnancy, age, military status, marital status, genetic characteristics, gender, gender identity, gender variance, or sexual orientation include, but are not limited to the following examples:

Verbal - repeated, unsolicited derogatory comments, epithets or slurs; or continued requests for social or sexual contact after being advised such contact is unwelcome.

Physical - assault, impeding or blocking movement, unwelcome touching, leering, staring, or any physical interference with normal work or movement when directed at an individual.

Visual - derogatory, prejudicial, stereotypical or otherwise offensive posters, photographs, cartoons, notes, notices, bulletins, drawings.

Sexual - unwelcome or unsolicited verbal, non-verbal, or physical conduct of a sexual nature in which submission to or rejection of such conduct is used as the basis for making decisions affecting conditions of employment or has the purpose or effect of substantially interfering with an employee's job performance, or creates an intimidating hostile or offensive work environment. Submission to or rejection of such conduct is used as a basis for decisions with regard to employment, advancement, compensation, training, work assignments and other such actions.

Retaliation - includes but is not limited to discipline, transfer, denial of promotional opportunity, training, or assignment as a result of filing a complaint or participating in an investigation. Retaliation does not include normal supervisory correction, evaluation, assignment, change of schedule and direction arising out of business need to manage the work flow and environment. It shall not be a retaliatory act to transfer or reassign an employee who has requested such transfer or reassignment as a remedy for resolving a workplace conflict.

Specific examples of prohibited conduct include, but are not limited to, the following:

- Unwanted physical contact or unwanted sexually oriented conduct of any kind including sexual flirtations, touching, advances, or propositions.
- Verbal harassment of a sexual nature, such as sexual or lewd comments, jokes, references, and offensive personal references.
- Demeaning, insulting, intimidating, or sexually suggestive comments about an individual's personal appearance or sexual relations.
- The display in the workplace of demeaning, insulting, intimidating or sexually suggestive objects, pictures, photographs, posters or cartoons.
- Demeaning, insulting, intimidating, or sexually suggestive written, recorded, or electronically transmitted messages.
- Any of the above conduct, or other offensive conduct such as shunning or targeted joking, directed at individuals because of their race, national origin, religion, disability, age, military status, marital status, genetic characteristics, gender, gender identity, gender variance, or sexual orientation.

It is not under any circumstance a condition of employment to submit to unwanted sexual conduct and employees may reject any such conduct without fear of reprisal.

III. SUPERVISORY RESPONSIBILITY

Each supervisor and manager has a responsibility to keep the workplace free from any form of harassment or discrimination, and in particular, sexual harassment. Such responsibility shall include modeling appropriate conduct, expressing strong disapproval to correct questionable conduct, ensuring employees participate in regular training and affirmative discussion of the policy, and promptly contacting the appropriate staff (a departmental liaison or the department director) in the Human Resources Department (HR) when any complaint is received. Supervisors

and managers may also contact HR staff for guidance when developing a specific plan for promoting and maintaining a harassment and discrimination-free workplace.

No supervisor or manager is to threaten or insinuate, either explicitly or implicitly, that an employee's refusal or willingness to submit to sexual advances will affect the employee's terms or conditions of employment. No supervisor, manager, or employee shall engage in any form of retaliation against an employee who has raised a complaint of harassment or discrimination, or who has participated in an investigation of such a complaint under the provisions of this policy.

IV. EMPLOYEE RESPONSIBILITY

The City does not intend to regulate or control any relationship or social interaction of individuals which is freely entered into by all parties. However, the cooperation of individuals is necessary to ensure a professional and healthy work environment where discrimination and harassment are not tolerated.

An individual should make it clear that he/she is not interested in, or flattered by, uninvited sexual advances. If appropriate, and the individual feels comfortable in doing so, he/she should inform the offending party what specific behavior is offensive and unwelcome and request that any such action or speech be stopped immediately. If the individual does not believe it is appropriate to speak directly to the offending party, or does not feel comfortable in doing so, the individual should promptly notify his/her immediate supervisor, or the supervisor of the offending party, of the offending conduct. If the individual is not comfortable in reporting the conduct to a supervisor, the individual should report the conduct to HR staff (a departmental liaison or the HR Director). Any supervisor who receives such a report must immediately seek guidance from HR staff.

V. COMPLAINT PROCEDURE

Any employee who believes that a supervisor, manager, other employee, or non-employee's conduct or words constitute unwelcome harassment or discrimination has the responsibility to report or complain about the situation as soon as possible. The report or complaint may be made to the employee's supervisor, manager, or directly to HR staff (a departmental liaison or the HR Director). Any supervisor or manager who receives such a report or complaint shall seek guidance from HR staff as soon as possible. Supervisors and managers are expressly directed not to agree to accept such complaints confidentially and must promptly seek guidance from HR staff.

HR staff will work with departmental staff to seek the most appropriate solution based on the individual circumstances. When an investigation is warranted, the complaint will be investigated promptly and thoroughly by HR staff or, where appropriate, under the review and guidance of HR staff. In work groups covered by departmental or contractual investigatory standards, HR staff will coordinate the process to ensure that organizational, departmental, and contractual standards are met.

Employees are required to cooperate in any investigation. In all cases, if the accused harasser is an employee, he/she will be notified of the complaint and investigation prior to the initiation of an investigation. Investigators will also meet with the respective Department Head(s) at the onset of the investigation to discuss procedures and expectations. At the conclusion of the investigation, a report will be issued which will include a finding of whether or not this policy has been violated.

Results of an investigation may include, but are not limited to: a finding that there was a policy violation; a finding of no policy violation; or no finding. Until such a report is issued stating that a violation has occurred, the respondent will not be considered to have violated the policy, even if the employee has been coached to modify his/her behavior. The investigatory report will be issued to the complainant, any employee against whom a complaint has been made, the HR Director, and all supervisory/managerial staff in the affected reporting hierarchy, up to and including the City Manager.

VI. DISCIPLINARY ACTION

Violation of this policy will be grounds for disciplinary action, up to and including termination of employment. In addition, appropriate remedial steps will be taken to prevent any further discrimination or harassment, or to prevent any retaliation. Based on the circumstances, disciplinary action may also be taken against supervisory staff, where appropriate, if reasonable standards were not being communicated and enforced in the workplace.

Department managers and/or supervisors may seek guidance from HR staff on typical disciplinary penalties and other options for corrective action. However, it shall be the responsibility of the employee's supervisory staff, based on departmental protocol, to impose disciplinary action against any employee who is found to be in violation of this policy or who has failed to fulfill his/her supervisory responsibilities. In such cases, the employee who is subject to disciplinary action will be provided with a written statement of the grounds for such potential action and given an opportunity to meet with the manager responsible for making the disciplinary decision so that he/she may respond to the allegations in advance of the disciplinary decision.

The City prohibits any form of retaliation against employees who bring complaints or provide information about harassment. If an investigation shows that a complainant or witness knowingly supplied false information, that individual may be subject to disciplinary action, up to and including termination.

VII. LEGAL REVIEW

This policy will be reviewed by the City Attorney's Office every two years or upon any changes to the policy content.

VIII. INTERPRETATION AND APPLICATION

Employees who have questions concerning the interpretation or application of this policy should contact the Human Resources Department. In determining whether or not this policy has been violated, the Human Resources Department or its designee will be the fact finder responsible for interpretation and application of this policy taking into account objective and subjective standards.

IX. EXCEPTIONS/CHANGE

This policy supersedes all previous policies covering the same or similar topics. Any exception to this policy may be granted only by the Human Resources Director or the City Manager. This policy may be reviewed and changed at any time.